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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1944

No. 274

NORTH COAST TRANSPORTATION COMPANY, A CORPORATION, AND INDEPENDENT STAGES, INC.,

vs. *Appellants,*

THE UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION AND WEST COAST BUS LINES, LTD., ET AL.

Appellees.

STATEMENT OF BASIS UPON WHICH APPELLANTS CONTEND THE SUPREME COURT OF THE UNITED STATES HAS JURISDICTION UPON APPEAL TO REVIEW THE FINAL ORDER AND DECREE IN QUESTION.

Pursuant to Rule 12, paragraph 1, of the Supreme Court of the United States, appellants above named file this their statement of the basis upon which said appellants contend that the Supreme Court of the United States has jurisdiction upon appeal to review the final order and decree in question, as follows:

1. The appeal herein is from a final order and decree made and entered by a District Court of the United States

specially constituted under section 47 of Title 28 of the United States Code in a case brought by appellants under sections 41 (28), 43 to 45, 45a, 46, 47, 47a and 48 of Title 28 of the United States Code and, as provided in section 47a of Title 28 of the United States Code (Sec. 210 of Judicial Code, as amended), a direct appeal to the Supreme Court of the United States may be taken from a final decree made by such specially-constituted District Court.

It is further provided by section 238 of the Judicial Code, as amended (28 U. S. C. A. section 345), that a direct review by the Supreme Court may be had where such decree is rendered under section 47a of Title 28 of the United States Code.

2. The final order and decree appealed from was made and entered on the 29th day of February, 1944.

3. The application for appeal was presented on April 18, 1944.

4. The final order and decree appealed from vacated the temporary injunction theretofore granted by the Court and dismissed plaintiffs' suit to enjoin, set aside and annul, as far as it relates to operations between Portland, Oregon, and Seattle, Washington, an order of the Interstate Commerce Commission made on October 6, 1942, granting to West Coast Bus Lines, Ltd., a certificate of public convenience and necessity to operate as a common carrier of passengers between San Francisco and Seattle. It was alleged in the complaint that the Commission acted without jurisdiction or authority and in violation of the provisions of Section 205(a) of the Motor Carrier Act (49 U. S. C. A. section 305) in denying plaintiffs' motion to refer the application for a certificate to a Joint Board for hearing and disposition, that the Commission's order is

beyond its authority and contrary to law and violates the constitutional rights of the plaintiffs, and particularly is in contravention of the provisions of the Fifth Amendment to the Constitution of the United States, for the reasons set forth in said complaint, that there are no findings sufficient to support the order of the Commission, and that there is no substantial evidence to support the order or to support the purported general finding of the Commission that the present and future public convenience and necessity require the bus operations proposed by the applicant between Portland and Seattle.

5. The following decisions of this Court are believed to sustain jurisdiction of this appeal:

Alton Railroad Co., et al., v. *United States of America, et al.*, 315 U. S. 15, 86 L. Ed. 586; *United States* v. *Carolina Freight Carriers Corporation*, 315 U. S. 475, 86 L. Ed. 971; *Purcell, et al.*, v. *United States, et al.*, 315 U. S. 381, 86 L. Ed. 910.

6. A copy of the opinion of the specially-constituted District Court is appended hereto, marked Exhibit "A." *

Respectfully submitted,

JOHN O. MORAN,
FREDERICK W. MIELKE,
FERD J. SCHAAF,
FRED C. DORSEY.

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* (Clerk's Note: The opinion is printed as an Appendix to the Jurisdictional Statement in No. 275, October Term, 1944.)